

AMENDED IN SENATE MARCH 27, 2014

AMENDED IN SENATE MARCH 4, 2014

SENATE BILL

No. 911

**Introduced by Senator Block
(Coauthor: Senator Correa)**

(Coauthors: Assembly Members Ammiano, Brown, Chávez, Skinner,
Ting, Wieckowski, and Yamada)

January 23, 2014

An act to amend Sections 1569.23, 1569.62, 1569.625, 1569.626, and 1569.69 of, and to add Sections 1569.371, 1569.39, and 1569.696 to, the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

SB 911, as amended, Block. Residential care facilities for the elderly.

(1) Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. A person who violates the act is guilty of a misdemeanor and subject to civil penalty and suspension or revocation of license.

Existing law requires an applicant for a license to complete, at a minimum, a 40-hour certification program approved by the department that includes instruction in a uniform code of knowledge, and to pass a written test.

This bill would change the minimum hours of classroom instruction to 100 hours, of which 80 hours are classroom instruction, and would add additional topics to the uniform code of knowledge, including, but not limited to, the adverse effects of psychotropic drugs for use in controlling the behavior of persons with dementia. The bill would also

require the department to annually review the test and update it as necessary to reflect changes in the law and regulations.

This bill would require that no licensee, or officer or employee of the licensee, shall discriminate or retaliate against any person receiving the services of the licensee's residential care facility for the elderly, or against any employee of the licensee's facility, on the basis, or for the reason that, the person, employee, or any other person dialed or called 911.

This bill would require a residential care facility for the elderly that accepts or retains residents with ~~restricted or prohibited health conditions, as defined by the department, to employ a registered nurse on a full-time or part-time basis, as appropriate, to oversee the care provided to those residents. A residential care facility for the elderly that accepts or retains residents with restricted or prohibited health conditions would be required to have a registered nurse on call 24 hours per day, as specified.~~ *ensure that residents receive home health or hospice services sufficient in scope and hours by appropriately skilled professionals, acting within their scope of practice, to ensure that residents receive medical care as prescribed by the resident's physician and contained in the resident's service plan. This bill would define an "appropriately skilled professional" as an individual who has training and is licensed to perform the necessary medical procedures prescribed by a physician, which includes, but is not limited to, a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, or respiratory therapist.*

(2) Existing law requires the Director of Social Services to ensure that licensees, administrators, and staffs of residential care facilities for the elderly have appropriate training to provide the care and services for which a license or certificate is issued. The department is required to develop a uniform code of knowledge for the continuing education of administrators of residential care facilities for the elderly.

This bill would also require the department to develop a uniform code of knowledge *jointly with the California Department of Aging* for the initial certification of administrators, and add additional topics to the uniform code of knowledge, including, but not limited to, applicable laws and regulations and residents' rights.

(3) Existing law requires the department to adopt regulations to require staff members of residential care facilities for the elderly who assist residents with personal activities of daily living to receive 10 hours of training within the first 4 weeks of employment, and 4 hours

of training annually thereafter on topics, including, but not limited to, policies and procedures regarding medications.

This bill would increase that training to 40 hours of training within the first 4 weeks of employment, 20 hours of training annually thereafter, and would also require that at least 24 hours of training be completed prior to providing direct care to residents. This bill would exempt a residential care facility for the elderly from these training requirements if the facility demonstrates to the department that it only employs certified nurse assistants with valid certification *from those requirements*, provided that certified nurse assistants receive 8 hours of training, prior to providing direct care to residents, on resident characteristics, plans of care, resident records, and facility practices and procedures. This bill would also authorize the department to develop a certification training program with a standardized test for specified staff.

(4) Existing law requires all direct care staff of a residential care facility for the elderly, which advertises or promotes special care, programming, or environment for persons with dementia, receive 6 hours of resident care orientation within the first 4 weeks of employment and 8 hours of in-service training per year.

This bill would increase that training to 15 hours of resident care orientation, prior to providing direct care to residents, and 12 hours of in-service training per year on the subject of providing care and supervision to residents with dementia.

(5) Existing law requires that employees who assist residents with the self-administration of medications at a licensed residential care facility for the elderly, which provides care for 16 or more persons, complete 16 hours of initial training, consisting of 8 hours of hands-on shadowing training and 8 hours of other training or instruction, to be completed within the first 2 weeks of employment. If that facility provides care for 15 or fewer persons, employees are required to complete 6 hours of initial training, consisting of 2 hours of hands-on shadowing training and 4 hours of other training or instruction, to be completed within the first 2 weeks of employment.

This bill would require employees at a licensed residential care facility for the elderly that provides care for 16 or more persons, to complete 32 hours of initial training, consisting of 12 hours of hands-on shadowing training and 20 hours of other training or instruction, to be completed within the first 4 weeks of employment. For facilities providing care for 15 or fewer persons, this bill would increase those

training requirements to 16 hours of initial training, consisting of 8 hours of hands-on shadowing training, and 8 hours of other training.

This bill would require all direct care staff of residential care facilities for the elderly that serve residents with postural supports, or restricted health conditions or health services, or who receive hospice care services, as described in specified regulations, in addition to other training requirements, receive 15 hours of training on the care, supervision, and special needs of those residents, prior to providing direct care to residents. This bill also would require 12 hours of in-service training per year on the subject of serving those residents.

(6) Because a violation of any of the above provisions would be a misdemeanor, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1569.23 of the Health and Safety Code
2 is amended to read:

3 1569.23. (a) As a requirement for licensure, the applicant shall
4 demonstrate that he or she has successfully completed a
5 certification program approved by the department.

6 (b) The certification program shall be for a minimum of 100
7 hours, of which 80 hours are classroom instruction, and include a
8 uniform core of knowledge which shall include all of the following:

9 (1) Law, regulations, policies, and procedural standards that
10 impact the operations of residential care facilities for the elderly.

11 (2) Business operations.

12 (3) Management and supervision of staff.

13 (4) Psychosocial need of the elderly residents.

14 (5) Physical needs for elderly residents.

15 (6) Community and support services.

16 (7) Use, misuse, and interaction of drugs commonly used by
17 the elderly, and the adverse effects of psychotropic drugs for use
18 in controlling the behavior of persons with dementia.

1 (8) Nonpharmacologic, person-centered approaches to dementia
2 care.

3 (9) Resident admission, retention, and assessment procedures.

4 (10) Residents' rights, and the importance of initial *and* ongoing
5 training for all staff to ensure residents' rights are fully respected
6 and implemented.

7 (c) Successful completion of the certification program shall be
8 demonstrated by passing a written test and submitting a fee of one
9 hundred dollars (\$100) to the department for the issuance of a
10 certificate of completion.

11 (d) The department shall establish by regulation the program
12 content, the testing instrument, process for approving certification
13 programs, and criteria to be used for authorizing individuals or
14 organizations to conduct certification programs. These regulations
15 shall be developed with the participation of provider organizations
16 and other stakeholder groups. The department shall review the test
17 annually and update it as necessary to reflect changes in law and
18 regulations.

19 (e) This section shall apply to all applications for licensure
20 unless the applicant provides evidence that he or she has a current
21 license for another residential care facility for the elderly which
22 was initially licensed prior to July 1, 1989, or has successfully
23 completed an approved certification program within the prior five
24 years.

25 (f) If the applicant is a firm, partnership, association, or
26 corporation, the chief executive officer, or other person serving in
27 a like capacity, or the designated administrator of the facility shall
28 provide evidence of successfully completing an approved
29 certification program.

30 SEC. 2. Section 1569.371 is added to the Health and Safety
31 Code, to read:

32 1569.371. (a) No licensee, or officer or employee of the
33 licensee, shall discriminate or retaliate in any manner against any
34 person receiving the services of the licensee's residential care
35 facility for the elderly, or against any employee of the licensee's
36 facility, on the basis, or for the reason that, the person, employee,
37 or any other person dialed or called 911.

38 (b) A violation of this section is subject to civil penalty pursuant
39 to Section 1569.49.

SEC. 3. Section 1569.39 is added to the Health and Safety Code, to read:

1569.39. (a) A residential care facility for the elderly that accepts or retains residents with ~~restricted or prohibited~~ health conditions, as defined by the ~~department to include, at a minimum, bedridden, contractures, decubitus ulcers, healing wounds, or receipt of hospice services,~~ shall employ a registered nurse on a full-time or part-time basis, as appropriate, to oversee the care provided to those residents. *department, in Section 87615 of Title 22 of the California Code of Regulations, shall ensure that residents receive home health or hospice services sufficient in scope and hours to ensure that residents receive medical care as prescribed by the resident's physician and contained in the resident's service plan.*

~~(b) A residential care facility for the elderly subject to this section shall also provide for a registered nurse to be on call 24 hours per day. The facility may satisfy this on-call requirement by contracting with a nursing agency.~~

(b) A residential care facility for the elderly that accepts or retains residents with restricted health conditions, as defined by the department, shall ensure that residents receive medical care as prescribed by the resident's physician and contained in the resident's service plan by appropriately skilled professionals acting within their scope of practice.

(c) An "appropriately skilled professional" means, for purposes of this section, an individual who has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes, but is not limited to, a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, or respiratory therapist. These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or a facility, and who are currently licensed in this state.

(d) Failure to meet or arrange to meet the needs of those residents who require specialized health services, or failure to notify the physician of a resident's illness or injury that poses a danger of death or serious bodily harm is a licensing violation and subject to civil penalty pursuant to Section 1569.49.

SEC. 4. Section 1569.62 of the Health and Safety Code is amended to read:

1 1569.62. (a) The director shall ensure that licensees,
2 administrators, and staffs of residential care facilities for the elderly
3 have appropriate training to provide the care and services for which
4 a license or certificate is issued.

5 (b) The department shall develop *jointly with the California*
6 *Department of Aging* requirements for a uniform core of knowledge
7 for the required initial certification and continuing education for
8 administrators, and their designated substitutes, and for
9 recertification of administrators of residential care facilities for
10 the elderly. This knowledge base shall include, as a minimum,
11 basic understanding of the psychosocial and physical care needs
12 of elderly persons, applicable laws and regulations, residents'
13 rights, and administration. This training shall be developed in
14 consultation with individuals or organizations with specific
15 expertise in residential care facilities for the elderly or assisted
16 living services, or by an outside source with expertise in residential
17 care facilities for the elderly or assisted living services.

18 (1) The initial certification training for administrators shall
19 consist of at least 100 hours.

20 (2) The continuing education requirement for administrators is
21 at least 60 hours of training during each two-year certification
22 period.

23 (c) (1) The department shall develop a uniform resident
24 assessment tool to be used by all residential care facilities for the
25 elderly. The assessment tool shall, in lay terms, help to identify
26 resident needs for service and assistance with activities of daily
27 living.

28 (2) The departments shall develop a mandatory training program
29 on the utilization of the assessment tool to be given to
30 administrators and their designated substitutes.

31 SEC. 5. Section 1569.625 of the Health and Safety Code is
32 amended to read:

33 1569.625. (a) The Legislature finds that the quality of services
34 provided to residents of residential care facilities for the elderly is
35 dependent upon the training and skills of staff.

36 (b) The current training requirements for staff of residential care
37 facilities for the elderly are insufficient to meet the range of care
38 needs of the residents of those facilities. It is the intent of the
39 Legislature in enacting this section to ensure that direct care staff

1 have the knowledge and proficiency to carry out the tasks of their
2 jobs.

3 (c) The department shall adopt regulations to require staff
4 members of residential care facilities for the elderly who assist
5 residents with personal activities of daily living to receive
6 appropriate training. This training shall consist of 40 hours of
7 training within the first four weeks of employment, at least 24
8 hours of which shall be completed prior to providing direct care
9 to residents, and 20 hours annually thereafter. This training shall
10 be administered on the job, or in a classroom setting, or any
11 combination of the two. The department shall establish the subject
12 matter required for this training. This training shall be developed
13 in consultation with individuals or organizations with specific
14 expertise in residential care facilities for the elderly or assisted
15 living services, or by an outside source with expertise in residential
16 care facilities for the elderly or assisted living services, as defined
17 in Section 1771.

18 (d) The training shall include, but not be limited to, the
19 following:

20 (1) Physical limitations and needs of the elderly.

21 (2) Importance and techniques for personal care services.

22 (3) Residents' rights.

23 (4) Policies and procedures regarding medications.

24 ~~(5) FDA-approved uses for psychoactive drugs, common side~~
25 ~~effects, and the increased risk of death when elderly residents with~~
26 ~~dementia are given antipsychotic medications.~~

27 *(5) Use, misuse, and interaction of drugs commonly used by the*
28 *elderly, and the adverse effects of psychotropic drugs for use in*
29 *controlling the behavior of persons with dementia.*

30 (6) The special needs of persons with Alzheimer's disease and
31 dementia, including nonpharmacologic person-centered approaches
32 to dementia care.

33 (7) Psychosocial needs of the elderly.

34 (8) This subdivision shall not apply to a residential care facility
35 for the elderly that demonstrates to the department that the facility
36 ~~employs only certified nurse assistants with valid certification~~
37 *certified nurse assistants, certified* pursuant to Section 1337.2,
38 except that certified nurse assistants with valid certification shall
39 receive eight hours of training, prior to providing direct care to

1 residents, on resident characteristics, resident records, and facility
2 practices and procedures.

3 (e) The department may develop a certification training program
4 with a standardized test for staff pursuant to this section and
5 Sections 1569.626, 1569.69, and 1569.696.

6 SEC. 6. Section 1569.626 of the Health and Safety Code is
7 amended to read:

8 1569.626. All residential care facilities for the elderly that
9 advertise or promote special care, special programming, or a special
10 environment for persons with dementia, in addition to complying
11 with the training requirements described in Section 1569.625, shall
12 meet the following training requirements for all direct care staff:

13 (a) Fifteen hours of resident care orientation, prior to providing
14 direct care to residents. All 15 hours shall be devoted to the care
15 of persons with dementia. The facility may utilize various methods
16 of instruction including, but not limited to, preceptorship,
17 mentoring, and other forms of observation and demonstration. The
18 orientation time shall be exclusive of any administrative instruction.

19 (b) Twelve hours of in-service training per year on the subject
20 of providing care and supervision to residents with dementia. This
21 training shall be developed in consultation with individuals or
22 organizations with specific expertise in dementia care or by an
23 outside source with expertise in dementia care. In formulating and
24 providing this training, reference may be made to written materials
25 and literature on dementia and the care and treatment of persons
26 with dementia. This training requirement may be provided at the
27 facility or offsite and may include a combination of observation
28 and practical application.

29 SEC. 7. Section 1569.69 of the Health and Safety Code is
30 amended to read:

31 1569.69. (a) Each residential care facility for the elderly
32 licensed under this chapter shall ensure that each employee of the
33 facility who assists residents with the self-administration of
34 medications meets the following training requirements:

35 (1) In facilities licensed to provide care for 16 or more persons,
36 the employee shall complete 32 hours of initial training. This
37 training shall consist of 12 hours of hands-on shadowing training,
38 which shall be completed prior to assisting with the
39 self-administration of medications, and 20 hours of other training

1 or instruction, as described in subdivision (f), which shall be
2 completed within the first four weeks of employment.

3 (2) In facilities licensed to provide care for 15 or fewer persons,
4 the employee shall complete 16 hours of initial training. This
5 training shall consist of eight hours of hands-on shadowing training,
6 which shall be completed prior to assisting with the
7 self-administration of medications, and eight hours of other training
8 or instruction, as described in subdivision (f), which shall be
9 completed within the first two weeks of employment.

10 (3) An employee shall be required to complete the training
11 requirements for hands-on shadowing training described in this
12 subdivision prior to assisting any resident in the self-administration
13 of medications. The training and instruction described in this
14 subdivision shall be completed, in their entirety, within the first
15 two weeks of employment.

16 (4) The training shall cover all of the following areas:

17 (A) The role, responsibilities, and limitations of staff who assist
18 residents with the self-administration of medication, including
19 tasks limited to licensed medical professionals.

20 (B) An explanation of the terminology specific to medication
21 assistance.

22 (C) An explanation of the different types of medication orders:
23 prescription, over-the-counter, controlled, and other medications.

24 (D) An explanation of the basic rules and precautions of
25 medication assistance.

26 (E) Information on medication forms and routes for medication
27 taken by residents.

28 (F) A description of procedures for providing assistance with
29 the self-administration of medications in and out of the facility,
30 and information on the medication documentation system used in
31 the facility.

32 (G) An explanation of guidelines for the proper storage, security,
33 and documentation of centrally stored medications.

34 (H) A description of the processes used for medication ordering,
35 refills, and the receipt of medications from the pharmacy.

36 (I) An explanation of medication side effects, adverse reactions,
37 errors, the adverse effects of psychotropic drugs for use in
38 controlling the behavior of persons with dementia, and the
39 increased risk of death when elderly residents with dementia are
40 given antipsychotic medications.

1 (5) To complete the training requirements set forth in this
2 subdivision, each employee shall pass an examination that tests
3 the employee's comprehension of, and competency in, the subjects
4 listed in paragraph (4).

5 (6) Residential care facilities for the elderly shall encourage
6 pharmacists and licensed medical professionals to use plain English
7 when preparing labels on medications supplied to residents. As
8 used in this section, "plain English" means that no abbreviations,
9 symbols, or Latin medical terms shall be used in the instructions
10 for the self-administration of medication.

11 (7) The training requirements of this section are not intended
12 to replace or supplant those required of all staff members who
13 assist residents with personal activities of daily living as set forth
14 in Sections 1569.625 and 1569.696.

15 (8) The training requirements of this section shall be repeated
16 if either of the following occurs:

17 (A) An employee returns to work for the same licensee after a
18 break of service of more than 180 consecutive calendar days.

19 (B) An employee goes to work for another licensee in a facility
20 in which he or she assists residents with the self-administration of
21 medication.

22 (b) Each employee who received training and passed the
23 examination required in paragraph (5) of subdivision (a), and who
24 continues to assist with the self-administration of medicines, shall
25 also complete eight hours of in-service training on
26 medication-related issues in each succeeding 12-month period.

27 (c) The requirements set forth in subdivisions (a) and (b) do not
28 apply to persons who are licensed medical professionals.

29 (d) Each residential care facility for the elderly that provides
30 employee training under this section shall use the training material
31 and the accompanying examination that are developed by, or in
32 consultation with, a licensed nurse, pharmacist, or physician. The
33 licensed residential care facility for the elderly shall maintain the
34 following documentation for each medical consultant used to
35 develop the training:

36 (1) The name, address, and telephone number of the consultant.

37 (2) The date when consultation was provided.

38 (3) The consultant's organization affiliation, if any, and any
39 educational and professional qualifications specific to medication
40 management.

1 (4) The training topics for which consultation was provided.

2 (e) Each person who provides employee training under this
3 section shall meet the following education and experience
4 requirements:

5 (1) A minimum of five hours of initial, or certified continuing,
6 education or three semester units, or the equivalent, from an
7 accredited educational institution, on topics relevant to medication
8 management.

9 (2) The person shall meet any of the following practical
10 experience or licensure requirements:

11 (A) Two years of full-time experience, within the last four years,
12 as a consultant with expertise in medication management in areas
13 covered by the training described in subdivision (a).

14 (B) Two years of full-time experience, or the equivalent, within
15 the last four years, as an administrator for a residential care facility
16 for the elderly, during which time the individual has acted in
17 substantial compliance with applicable regulations.

18 (C) Two years of full-time experience, or the equivalent, within
19 the last four years, as a direct care provider assisting with the
20 self-administration of medications for a residential care facility
21 for the elderly, during which time the individual has acted in
22 substantial compliance with applicable regulations.

23 (D) Possession of a license as a medical professional.

24 (3) The licensed residential care facility for the elderly shall
25 maintain the following documentation on each person who provides
26 employee training under this section:

27 (A) The person's name, address, and telephone number.

28 (B) Information on the topics or subject matter covered in the
29 training.

30 (C) The time, dates, and hours of training provided.

31 (f) Other training or instruction, as required in paragraphs (1)
32 and (2) of subdivision (a), may be provided offsite, and may use
33 various methods of instruction, including, but not limited to, all
34 of the following:

35 (1) Lectures by presenters who are knowledgeable about
36 medication management.

37 (2) Video recorded instruction, interactive material, online
38 training, and books.

39 (3) Other written or visual materials approved by organizations
40 or individuals with expertise in medication management.

(g) Residential care facilities for the elderly licensed to provide care for 16 or more persons shall maintain documentation that demonstrates that a consultant pharmacist or nurse has reviewed the facility's medication management program and procedures at least twice a year.

(h) Nothing in this section authorizes unlicensed personnel to directly administer medications.

SEC. 8. Section 1569.696 is added to the Health and Safety Code, to read:

1569.696. (a) All residential care facilities for the elderly that serve residents with postural supports, as described in Section 87608 of Title 22 of the California Code of Regulations, or restricted health conditions or health services, as described in Section 87612 of Title 22 of the California Code of Regulations, or who receive hospice services, as described in Section 87633 of Title 22 of the California Code of Regulations, in addition to complying with the training requirements in Section 1569.625, shall meet the following training requirements for all direct care staff:

(1) Fifteen hours of training on the care, supervision, and special needs of those residents, prior to providing direct care to residents. The facility may utilize various methods of instruction, including, but not limited to, preceptorship, mentoring, and other forms of observation and demonstration. The orientation time shall be exclusive of any administrative instruction.

(2) Twelve hours thereafter of in-service training per year on the subject of serving those residents.

(b) This training shall be developed in consultation with individuals or organizations with specific expertise in the care of those residents described in subdivision (a). In formulating and providing this training, reference may be made to written materials and literature. This training requirement may be provided at the facility or offsite and may include a combination of observation and practical application.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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